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PSYSTAR CORPORATION

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

APPLE INC., a California Corporation,

Plaintiff,

v.

PSYSTAR CORPORATION,

Defendant.

Case No. CV 08-3251 WHA

STIPULATION TO EXTEND DEADLINE TO COMPLETE MEDIATION AND ~~[PROPOSED]~~ ORDER AMENDING THE CASE MANAGEMENT ORDER TO REFLECT THE SAME

Judge: Honorable William Alsup
Courtroom: 9, 19th Floor

WHEREAS on November 7, 2008, this Court issued a Case Management Order setting January 31, 2009 as the last day for the parties to complete JAMS mediation;

WHEREAS Plaintiff Apple Inc. ("Apple") and Defendant Psystar Corp. ("Psystar") met and conferred on the selection of a Mediator and agreed to have the mediation before Hon. Daniel Weinstein (Ret.);

WHEREAS the only enlargements of time pursuant to Local Civil Rule 6-2(a)(2) enlarged the time Psystar was allowed to respond to the complaint (two separate enlargements), enlarged the time Apple was allowed to respond to Psystar's Counterclaims and moved the date of the hearing on Psystar's motion for leave to amend its counterclaims by one week (Declaration of J. Jeb B. Oblak in Support of The Parties' Stipulation to Extend Deadline to Complete Mediation (Attached Hereto as Exhibit A) at ¶¶ 3-4);

WHEREAS Apple and Psystar attempted to schedule a mediation in late January before Judge Weinstein but learned that he was not available during those times in January when the parties were available (*Id.* at ¶ 5);

WHEREAS the next available date on Judge Weinstein's Calendar on which all the parties and their counsel are available for mediation is February 18, 2009 (*Id.* at ¶ 6);

WHEREAS the rescheduling of the mediation to February 18, 2009 shall in no way interfere with the progress of discovery or other aspects of the litigation and shall not impact any of the other dates set forth in this Court's Case Management Order (*Id.* at ¶ 7);

THEREFORE, pursuant to Federal Rule of Civil Procedure 16(d), both parties stipulate to an extension of the deadline to complete mediation from January 31, 2008 to February 18, 2009. The parties also respectfully request that the Court amend its Case Management Order changing the date by which mediation must be completed from January 31, 2009 to February 18, 2009.

DATED: December 30, 2008

Respectfully submitted,

TOWNSEND AND TOWNSEND AND CREW LLP

By: */s/ James G. Gilliland, Jr.*
JAMES G. GILLILAND, JR.
Attorneys for Plaintiff
APPLE INC.

DATED: December 30, 2008

CARR & FERRELL LLP

By: */s/ Colby B. Springer*
COLBY B. SPRINGER
Attorneys for Defendant
PSYSTAR CORPORATION

ORDER

Pursuant to the stipulation, this Court GRANTS the parties' request and AMENDS the deadline to complete mediation as set forth in the November 7, 2008 Case Management Order from January 31, 2009 to February 18, 2009.

IT IS SO ORDERED.

DATED: December 31, 2008

Hon. William Alsup
United States District Court Judge

SIGNATURE ATTESTATION

Pursuant to General Order No. 45(X)(B), I hereby attest that I have obtained the concurrence in the filing of this document from all the signatories for whom a signature is indicated by a "conformed" signature (/s/) within this e-filed document and I have on file records to support this concurrence for subsequent production for the court if so ordered or for inspection upon request.

Dated: December 30, 2008

/s/ James G. Gilliland, Jr.
JAMES G. GILLILAND, JR.
Attorneys for Plaintiff
APPLE INC.

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